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& Almanza Trucking, LLC*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHARON McDANIEL, an individual,

Plaintiff,

vs.

MARIO A. SUAREZ; ALMANZA
TRUCKING LLC, an Arizona Limited-
Liability Company; DOES I through X,
inclusive; ROE CORPORATIONS I through
X, inclusive;

Defendants.

CASE NO.

NOTICE OF REMOVAL

PLEASE TAKE NOTE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants MARIO A. SUAREZ and ALMANZA TRUCKING, LLC (collectively “Defendants”), by and through their attorneys of record, hereby remove the above-captioned action from the Eighth Judicial District Court of Clark County, Nevada to the United States District Court for the District of Nevada. Removal is warranted under 28 U.S.C. § 1332(a)(1) because this is a civil action between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. In support of this Notice of Removal, Defendant states as follows:

1. On March 21, 2019, Plaintiff SHARON McDANIEL (“Plaintiff”) filed an action titled *Sharon McDaniel v. Mario A. Suarez; Almanza Trucking, LLC; DOES I through X; and ROE*

1 ***CORPORATIONS I through X*** in the Eighth Judicial District Court of Clark County Nevada, Case No.
 2 A-19-791535-C, assigned to Department XX. As per 28 U.S.C. § 1446(a), a true and correct copy of all
 3 process, pleadings, and orders served upon Defendants in the state court action are attached hereto as
 4 **Exhibit “A.”**

5 2. There are no matters pending in the state court action that require resolution by this
 6 Court.

7 3. Because this is a civil action between citizens of different states involving an amount in
 8 controversy in excess of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs,
 9 removal of this matter is proper as per 28 U.S.C. § 1332.

10 4. This action is one over which the United States District Courts have original jurisdiction
 11 by reason of the diversity of citizenship of the parties.

12 5. In accordance with 28 U.S.C. § 1446(d), Defendant has contemporaneously filed a copy
 13 of this Notice of Removal with the Clerk of the Eighth Judicial District Court in Clark County, Nevada,
 14 and have provided a written notice to Plaintiff by serving a copy of the instant Notice of Removal on
 15 counsel for Plaintiff.

16 **DIVERSITY OF CITIZENSHIP**

17 6. Plaintiff has averred she is a resident of Clark County, Nevada. As such, Plaintiff is a
 18 citizen of the State of Nevada for purposes of determining this Court's subject matter jurisdiction. *See*
 19 28 U.S.C. § 1332(C).

20 7. Defendant Mario A. Suarez is upon information and belief, a resident of the State of Arizona.

21 8. ALMANZA TRUCKING LLC is an Arizona limited liability company with, upon
 22 information and belief, its principal place of business in Arizona. A corporation is a citizen of the state
 23 in which it maintains its principal place of business. ***Hertz Corp. v. Friend***, 559 U.S. 77, 130 S. Ct. 1181
 24 (2010) As such, ALMANZA TRUCKING LLC is a citizen of the State of Arizona for purposes of
 25 determining this Court's subject matter jurisdiction. *See* 28 U.S.C. § 1332(c).

26 9. Complete diversity of citizenship existed between Plaintiff and Defendants at the time
 27 that Plaintiff's state court action was filed and served, and complete diversity of citizenship exists at the
 28 time of removal.

AMOUNT IN CONTROVERSY

10. As required by 28 U.S.C. § 1332, the amount in controversy in this matter exceeds \$75,000.00, exclusive of interest and costs.

11. Plaintiff alleges on August 17, 2017, in Las Vegas, Nevada, Plaintiff was stopped facing eastbound for the red traffic signal on Lake Mead Boulevard at the intersection with Hollywood Boulevard in the left hand turn lane. Plaintiff alleges that Defendant Suarez was traveling westbound on Lake Mead Boulevard when he failed to use due care and struck the Plaintiff's vehicle in the front. *See Exhibit "A"* at p. 2, para. 7. In her Request for Exemption from the Eighth Judicial District Court's mandatory, non-binding Arbitration program, filed on July 15, 2019, Plaintiff alleged past medical damages in the amount of \$109,232.78. *See Exhibit "B."*

12. Based on the foregoing, Defendants have met their burden of showing that the amount in controversy more likely than not exceeds the jurisdictional requirement of \$75,000.00.

13. This Notice of Removal is timely as it is being filed within thirty (30) days after July 15, 2019, which is the date upon which Defendants first learned of the amount in controversy, and which represented the first occasion from which it could be ascertained that this action "[was] one or [had] become one which [is] removable...." *See* 28 U.S.C. § 1446(b)(2); *see also Harris v. Bankers Life and Casualty Co.*, 425 F.3d 869 (9th Cir 2005).

14. In sum, because there is complete diversity of citizenship between Plaintiff and Defendants, and because Plaintiff is seeking damages in excess of the \$75,000.00 jurisdictional threshold, Defendants may remove this action pursuant to 28 U.S.C. § 1332 and 1441(b).

DATED this 8th day of August, 2019.

HALL JAFFE & CLAYTON, LLP

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